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COMMITTEE AGAINST TORTURE

Ninth session

SUMMARY RECORD OF THE 136th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 November 1992, at 10 a.m.

Chairman: Mr. VOYAME

CONTENTS

Preparatory activities relating to the World Conference on Human Rights (continued)

Organizational and other matters (continued)

Closure of the session

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The meeting was called to order at 10.05 a.m.

PREPARATORY ACTIVITIES RELATING TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 7)(continued)

1. Mr. SORENSEN, speaking on behalf of the working group composed of Mr. Mikhailov, Mr. Burns, Mr. Ben Ammar and himself introduced the draft comments and recommendations by the Committee to the Preparatory Committee of the World Conference, as well as to the Conference itself, prepared by the group. The text read:

"The Committee against Torture,

Pursuant to paragraph 9 of General Assembly resolution 45/155 of 18 December 1990 and paragraph 5 of Commission on Human Rights resolution 1991/30 of 5 March 1991,

1. Decides to appoint Mr. Sorensen as representative and Mr. Mikhailov as alternate to the meetings of the Preparatory Committee of the World Conference on Human Rights;

2. Recommends that:

(a) An energetic and concerted effort should be made both during the process of preparation for the World Conference and at the Conference itself, to encourage:

(i) Member States of the United Nations that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including its articles 20, 21 and 22; and

(ii) Those States parties to the Convention that have not done so to declare in favour of the provisions of articles 20, 21 and 22;

(b) Improving the implementation of existing human rights standards and instruments should be a major focus of the preparatory process and at the Conference itself and that consideration should be given in that context to the following:

Based on the experience of the work done in the Committee against Torture:

(i) Examination of the issues relevant to the implementation of the Convention;

(ii) Evaluation of the effectiveness of United Nations methods and mechanisms; and

(iii) Formulation of concrete recommendations for improving the effectiveness of United Nations mechanisms (especially the functioning of the Convention against Torture) aimed at promoting, encouraging and monitoring respect for human rights and fundamental freedoms;

(c) In view of the unfortunate rise of ethnic violence, torture and other human rights breaches in all their manifestations in various regions of the world, examine the possibilities of:

(i) Preventing human rights violations, especially the crime of torture, within the scope of the activities of the Committee; and

(ii) Increasing the resources of the United Nations budget allocated to human rights;

(d) In order to reach the goal of eradicating torture before the year 2000, setting torture on the agenda for the World Conference and thereby creating a general awareness all over the world of torture as a threat to democracy;

3. Suggests that, within the framework of the World Conference, a meeting be convened with the participation of the Chairpersons and/or representatives of the United Nations human rights treaty bodies and the Chairpersons and/or representatives of each of the principal regional and other human rights organizations, including the African Commission on Human and People's Rights, the European Commission on Human Rights, the European Court of Human Rights, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the Committee on the Application of Conventions and Recommendations of the International Labour Organisation and the Committee on Conventions and Recommendations of the United Nations Educational, Scientific and Cultural Organization, to deal with the matters referred to;

4. Further suggests that the Preparatory Committee as well as the World Conference should explore the following broader issues:

(i) The establishment of a High Commissioner for Human Rights;

(ii) The creation of an International Court for Human Rights;

(iii) The establishment of a Research Institute for Human Rights connected with the Centre for Human Rights of the United Nations; and

(iv) Cooperation and coordination with regional systems for the protection of human rights."

2. Mr. BURNS proposed that the words "Decides to appoint" in paragraph 1 should be replaced by the word "Appoints"; that the words "inter alia" should be inserted after the word "including" in paragraph 3; and that the roman numerals in brackets in paragraph 4 should read: (a), (b), (c) and (d).

3. It was so decided.

4. Mr. EL IBRASHI said that the text of the comments and recommendations did not focus enough on the Committee's specific mandate, which related not only to torture, but also to other cruel, inhuman or degrading treatment or

punishment. That point should be made more clearly. The text should also make a clearer distinction between concerns of primary importance to the Committee and more general human rights problems.

5. Mr. GIL LAVEDRA said that the text had very little substance, dealing in commonplaces or reiterating what was already known, its only significant recommendation being that States which had not yet done so should become parties to the Convention. It was also hard to see how the multilateral meeting suggested in paragraph 3 would be organized. The Committee should either make brief, practical recommendations relating directly to its mandate or none at all.

6. Mr. LORENZO asked whether the text under consideration was addressed to the Preparatory Committee in connection with possible item for inclusion in the agenda of the World Conference or to the Conference itself in connection with its proceedings.

7. The CHAIRMAN said that the Committee should be able to raise issues that were not directly within the framework of the Convention. For example, if the Office of a High Commissioner for human rights was established, it would obviously have an impact on the Committee's work and the effectiveness of the Convention.

8. Mrs. KLEIN (Representative of the Secretary-General) said that she agreed with the Chairman. General Assembly resolution 45/155 set out the main objectives of the World Conference, one of which was to improve the effectiveness of the implementation mechanisms of the international treaty system. All suggestions by the Committee, whether specific or general, would therefore be welcome and would be taken into account in preparing for the fourth meeting of the Preparatory Committee and the World Conference, but the Committee would probably not have enough time to prepare a full study of the topics for discussion which it chose.

9. Mr. DIPANDA MOUELLE said he agreed with Mr. Gil Lavedra and Mr. El Ibrashi that the Committee should focus on the areas of greatest concern to it, but he did not think that other aspects should be left out if they helped improve human rights protection in general; he had in mind the prevention and punishment of torture.

10. Mr. SORENSEN said that he agreed with Mr. El Ibrashi on the need to focus on torture. Paragraph 2 (b) was not devoid of content. If the treaty bodies did not take a firm stance, their concerns would not be reflected in the agenda of the World Conference. The Committee should therefore attempt to formulate concrete proposals.

11. Mr. El Ibrashi's point about torture was well taken and he agreed that the wording of the Convention should be added in paragraph 2 (c) after the word "torture".

12. It was important to raise the matter of prevention, which had been neglected by other treaty bodies. The reference to the need to increase resources was also justified.

13. He was in favour of retaining paragraph 2 (d) because the Committee was the only treaty body that would propose that such an item should be included in the agenda of the World Conference. If there was no cooperation among treaty bodies, there would be no results. The Committee should therefore stress the need to improve the effectiveness of United Nations methods and mechanisms.

14. Mr. LORENZO said he agreed with Mr. Dipanda Mouelle that the Committee should not limit itself to questions of torture. Although the World Conference must consider torture as a matter of priority, it would also have other items on its agenda.

15. He understood that some members wanted specific recommendations, but time was running short. The Committee should therefore continue preparing for the World Conference and seek to ensure that topics of interest to it were included in the agenda of the World Conference. The Committee would hold another session before the convening of the World Conference and it might spend a day on substantive issues, such as the relationship between a proposed high commissioner for human rights and the Committee. It should produce a list of subjects of particular interest to it, but should not propose solutions.

16. Mr. BURNS said that, although he had been a member of the working group, he was not committed to the substance of the text under consideration and had contributed nothing to it. In fact, he had doubts about the entire enterprise.

17. Mr. Gil Lavedra had objected that the text was not convincing and he could not agree more. However, its purpose was simply to provide a list of topics that the Committee wanted to have placed on the agenda of the World Conference. Some were specific to the Committee's activities and some were not. He agreed with Mr. Lorenzo and Mr. Dipanda Mouelle that the Committee must work within a context: it could not confine itself to the narrow language of its mandate and assume that its activities did not intersect with those of other bodies.

18. He suspected that there was a commonality of vague joint issues with the other treaty bodies because none of them had anything on the agenda. For example, who knew whether the establishment of the Office of a high commissioner for human rights, as suggested in paragraph 4 (a), would produce positive results? How would it be defined, what would its jurisdiction be and how would it interact with other treaty bodies? If, however, the Committee succeeded in having that question included in the agenda, it would at least be discussed and that would be a step forward.

19. He doubted that the members of the Committee sent to the World Conference would be able to submit a formal paper on specific issues. He expected that the World Conference would produce a lot of talk, but nothing compelling or objective. The problem was paragraph 3 of the text under consideration, which some members of the Committee apparently did not like. The human rights treaty bodies and other organizations would probably spend time discussing issues of joint concern, and presumably something would emerge from those discussions. He therefore accepted the criticism raised, but he did not see

that it would make any difference. He supported the recommendations of the Committee, but was not sure that any of them would be placed on the agenda of the World Conference; it should be the Committee's goal to ensure that they would be.

20. Mr. EL IBRASHI said that it was not his intention to exclude other topics, but to focus on torture. He agreed with Mr. Gil Lavedra and Mr. Lorenzo that the Committee should submit concrete proposals or none at all. There were a number of useful proposals that it could make, for example, with regard to issues of implementation. Like Mr. Lorenzo, he thought that a working group should be established to prepare for the World Conference. Clearly, the World Conference did not need to be told to consider possibilities for preventing human rights violations. But the Committee might suggest raising the matter of Member States that had not yet acceded to the Convention or the question of articles 20 and 21 of the Convention. Asking the World Conference to evaluate the effectiveness of United Nations methods and mechanisms was too vague. He did not object to the reference to increasing the resources of the United Nations budget allocated to human rights, although that, too, was unnecessary. The call to explore the establishment of a high commissioner for human rights and an international court for human rights was too general and had nothing to do with the Committee's work. The Committee should establish a working group to prepare specific topics for the World Conference, which the Committee should not only attend, but also participate in actively.

21. Mr. SORENSEN said that, at the second session of the Preparatory Committee, he had made a number of concrete proposals on the relationship between development, democracy and human rights, the treatment of torture victims, the role of education, etc. Mr. Burns had already visited Albania and he had been to Romania on behalf of the Committee. The results of those visits might also be discussed, but they could not be included in the text under consideration, whose purpose was to have torture placed on the agenda of the World Conference. If the text was to be shortened, he would propose that everything except the reference in paragraph 2 (d) to setting torture on the agenda for the World Conference in order to reach the goal of eradicating torture before the year 2000 should be deleted. Now was not the proper time to discuss what concrete points should be recommended or raised at the World Conference.

22. Mr. GIL LAVEDRA said that he agreed with Mr. Sorensen. A text had been prepared and the Committee should avoid becoming bogged down. Torture was at the heart of its work and it would not be useful for the Committee to discuss other matters.

23. Paragraph 2 (a) contained a specific recommendation that would improve the operation of the Convention. The recommendation in paragraph 2 (b) was repetitious because the General Assembly had already had those objectives in mind when it had decided to convene the World Conference. Paragraph 2 (c) and paragraph 2 (c)(ii) could be combined because the rise of ethnic violence could be linked to a request for more resources. The disintegration of political systems in recent years had led in some cases to conflicts and irrational violence had called into question the very goals of the United Nations, and it was therefore reasonable to request an increase in the resources of the United Nations budget allocated to human rights. He had no objection to paragraph 2 (d), as long as it was clear that it did not contain

a recommendation that had emerged from the Committee's work. He was not opposed to paragraph 3, but, as those human rights bodies were each part of a different system, he did not think that discussions with them would serve any purpose. Paragraph 4 merely repeated what other committees had already suggested and, in his view, the Committee should simply propose that those issues should be placed on the agenda of the World Conference for discussion.

24. The CHAIRMAN said that he could have supported the text as it stood, since, in his view, repeating recommendations made by other bodies could only strengthen it. He agreed that some points might be made more specific, but that should be done in the Preparatory Committee rather than in the Committee's draft recommendations. He had the impression that Mr. El Ibrashi and Mr. Gil Lavedra would have liked the text to be completely redrafted, but Mr. Gil Lavedra had now said that if paragraph 2 (b) could be shortened, he could accept the remainder. If Mr. El Ibrashi agreed to that proposal, the Committee's representative in the Preparatory Committee could be requested at the next session to present the points in greater detail when the Preparatory Committee met in April 1993. He suggested that Mr. Gil Lavedra might prepare an appropriate text during a short break in the meeting.

25. Mr. LORENZO suggested that the Chairman, Mr. Burns and Mr. Gil Lavedra should prepare a revised text on which the Committee could reach a consensus.

26. Mr. MIKHAILOV said that, when proposing the establishment of the working group that had prepared the original text, he had intended that it should concentrate on questions that were specific to the Committee rather than on general questions, but too much time had been spent in discussing the title and there had been no opportunity to consider the substantive questions. He agreed with the criticism which had been made by Mr. El Ibrashi and Mr. Gil Lavedra and could be taken into account at the Committee's next session and at the next meeting of the Preparatory Committee. Meanwhile, the text should be accepted as a working document, with its heading amended to read: "recommendations and suggestions ...".

27. Following a brief discussion in which Mr. EL IBRASHI and Mr. GIL LAVEDRA took part, The CHAIRMAN said that, if there was no objection, he would take it that the Committee decided to establish a working group, composed of Mr. Gil Lavedra, Mr. Burns and himself, to prepare an amended text.

28. It was so decided.

The meeting was suspended at 11.40 a.m. and resumed at 12 noon

29. The CHAIRMAN said that the working group had produced a compromise text which he commended for the Committee's consideration. It was an improvement on the original text, even though he could have accepted that version as it stood.

30. Mr. BURNS said that the revised text was entitled: "Recommendations by the Committee Against Torture to the Preparatory Committee of the World Conference as well as to the Conference itself" and read:

"The Committee Against Torture,

Pursuant to paragraph 9 of General Assembly resolution 45/155 of 18 December 1990 and paragraph 5 of Commission on Human Rights resolution 1991/30 of 5 March 1991,

1. Appoints Mr. Sorensen as representative and Mr. Mikhailov as alternate to the meetings of the Preparatory Committee of the World Conference on Human Rights,

2. Recommends that:

(a) With a view to eradicating torture by the year 2000, that subject matter should be included in the agenda of the World Conference.

(b) An energetic and concerted effort should be made both during the process of preparation for the World Conference and at the Conference itself to encourage:

(i) Member States of the United Nations that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including its articles 20, 21 and 22; and

(ii) Those States parties to the Convention which have not done so to declare in favour of the provisions of articles 20, 21 and 22.

(b) In view of the unfortunate rise of ethnic violence, torture and other human rights breaches in all their manifestations in various regions of the world, examine the possibilities of:

(i) Preventing human rights violations, especially the crimes of torture and other cruel, inhuman or degrading treatment or punishment, within the scope of the activities of the Committee; and

(ii) Increasing the resources of the United Nations budget allocated to human rights.

3. Would welcome the opportunity within the framework of the World Conference for a meeting to be convened with the participation of the Chairpersons and/or representatives of the United Nations human rights treaty bodies and the Chairpersons and/or representatives of each of the principal regional and other human rights organizations to deal with the matters referred to.

4. Would also welcome the Preparatory Committee as well as the World Conference exploring the following broader issues:

(a) The establishment of a High Commissioner for Human Rights;

(b) The creation of an International Court for Human Rights;

(c) The establishment of a Research Intitute for Human Rights connected with the Centre for Human Rights of the United Nations; and

(d) Cooperation and coordination with regional systems for the protection of human rights.

Suggests that with a view to improving the implementation of existing human rights standards and instruments, the following topics should be considered as appropriate ones for inclusion by the World Conference in its agenda:

(a) An examination of the issues relevant to the implementation of the Convention against Torture;

(b) An evaluation of the effectiveness of United Nations methods and mechanisms; and

(c) A formulation of concrete recommendations for improving the effectiveness of United Nations mechanisms (especially the functioning of the Convention against Torture) aimed at promoting, encouraging and monitoring respect for human rights and fundamental freedoms."

31. The CHAIRMAN said that the preambular paragraph should read: "Pursuant to paragraphs 9 and 10 of General Assembly resolution 45/155 ...".

32. The revised text of the recommendations was adopted.

33. The CHAIRMAN said that the Under-Secretary-General for Human Rights had informed Mr. El Ibrashi that he would do everything possible to obtain the necessary funds to enable one member of the Committee in each case to attend the San José and Bangkok regional meetings. If such funds became available, he suggested that Mr. Sorensen might go to San José and Mr. El Ibrashi to Bangkok.

34. Mr. BURNS said that it would be preferable both from the linguistic viewpoint and in the interest of the efficient use of resources for each meeting to be attended by a member from the area in question.

35. Mr. SORENSEN said that he had been about to make the same suggestion. He could support the candidacy of either Mr. Gil Lavedra or Mr. Lorenzo for the San José regional meeting.

36. Mr. BURNS said that there was no reason why Mr. Sorensen should not also attend if he could pay his way.

37. Mr. GIL LAVEDRA said he agreed that the selection should be made on a geographical basis. If the necessary funds could be provided, he would support Mr. Lorenzo's appointment. He also supported the suggestion that Mr. El Ibrashi should attend the Bangkok regional conference.

38. Mr. MIKHAILOV said he agreed that Mr. El Ibrashi should represent the Committee at the Bangkok regional meeting. He proposed that Mr. Gil Lavedra should be the Committee's representative at the meeting in San José and, if there were enough resources for a second person, that Mr. Lorenzo should also

attend. Although such decisions were subject to the resources made available, he believed that the Committee had decided that Mr. Sorensen should attend if the Danish Government paid his expenses.

39. The CHAIRMAN said he had understood that Mr. Gil Lavedra had prior commitments and was therefore unable to attend. He should therefore be replaced by Mr. Lorenzo.

40. Mr. LORENZO said that, if other financial resources could be found, Mr. Sorensen's attendance at the San José meeting would be welcomed.

41. Mr. EL IBRASHI reminded the Committee that resources would be provided for only one representative of the Committee at each regional meeting.

42. The CHAIRMAN said that, if there was no objection, he would take it that the Committee decided that Mr. Lorenzo should represent it at the meeting in San José if funds were made available by the Centre for Human Rights; that Mr. Sorensen would be welcome to attend if he could pay his own way or extra funds were provided by the Centre; and that Mr. El Ibrashi should attend the meeting in Bangkok. If funds were not provided, no one would attend any of the meetings.

43. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Working methods of the Committee

44. The CHAIRMAN requested the Secretariat to prepare a report which would provide information on the working methods of other Committees and give the Committee general ideas on how it could improve its work.

45. Some human rights Committees had working groups which drew up and submitted questions to Governments. The advantage of that system was that questions tended to be more systematic and Governments were able to take their time and give detailed replies. The system would be worth looking at in relation to the work of the Committee, which, unlike other Committees, did not adopt general comments or recommendations. Perhaps it should decide to do so.

46. In addition, the Secretariat might start keeping files containing information on the human rights situation in each State party, including any incidents of torture. The Committee might also discuss questions of principle, such as the way in which the death penalty was carried out in some States parties.

47. The Committee had managed to speed up procedures with regard to communications as a result of the appointment of country rapporteurs, but other methods, including those used by the Human Rights Committee, could be adopted and he requested the Secretariat to provide information on them. In his view, the Committee's reports were too long and repeated information contained in the summary records, which gave a clear and accurate picture of

what happened in meetings. The Committee should therefore consider the possibility of reducing the length of its reports; that would also make them more readable and accessible.

48. Since some members of the Committee had not received documentation for the session on time, he suggested that the Secretariat might make use of special postal and delivery services.

49. Mr. SORENSEN said that he agreed with the comments and suggestions made by the Chairman and hoped that the Secretariat would be in a position to provide information on other human rights bodies as quickly as possible. He supported the idea that the Committee should adopt general comments and recommendations. He also proposed that, at the end of each session, it should decide what it would discuss at its next session and that a member of the Committee should be requested to prepare a paper on a particular topic. Information should be made available to the members of the Committee on what torture might involve, since, according to article 20 of the Convention, they could be called on to take part in fact-finding missions.

Information on the work of other human rights bodies

50. Mr. SORENSEN said that, as a result of discussions in the context of the Preparatory Committee for the World Conference on Human Rights, he had realized that there were advantages to cooperation between United Nations treaty bodies. For example, he had found the work of the Committee on the Rights of the Child to be quite interesting and had particularly welcomed the suggestion made in its report that the Convention on the Rights of the Child should be translated into as many languages as possible, preferably all the languages of the States parties. That might be a useful step with regard to the Convention against Torture as well. The Committee on the Rights of the Child had also suggested that some kind of computerized database should be established in the Centre for Human Rights to keep country files, which would be helpful to all human rights treaty bodies. That Committee held two two-week sessions a year and had decided to deal with the reports of States parties over a period of two days, but, as there were already 120 signatories to the Convention, that might be rather ambitious.

51. The CHAIRMAN, speaking as a member of the Committee, said that the Committee on the Elimination of Discrimination Against Women held one two-week session each year and had a five-member pre-sessional working group which prepared questions for Governments, although the members of the Committee were, of course, free to ask further questions during the session. The Committee often did not have enough time to complete its work and it had fallen behind in the consideration of reports. It had therefore asked for funds so that it might hold two sessions a year starting 1993. Unlike the Committee against Torture, it was not involved in activities such as fact-finding missions and the consideration of communications and it dealt only with reports submitted by State parties. It had no Country or Alternate Country Rapporteurs; the Chairperson made concluding comments after a delegation had answered the Committee's questions. The Committee's activities covered discrimination against women in all areas and, unlike the Committee against Torture, it adopted general decisions and recommendations which were submitted to all States parties.

52. The CHAIRMAN said that, because of the shortage of time, Mr. El Ibrashi's report on the work of the Human Rights Committee would be the first item on the agenda of the spring session of the Committee against Torture.

CLOSURE OF THE SESSION

53. After the customary exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 12.55 p.m.